

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-366-A - ORDER NO. 2010-435

JUNE 18, 2010

| | | | |
|--------|---|---|-------------------|
| IN RE: | Application of Chem-Nuclear Systems, LLC, |) | ORDER IDENTIFYING |
| | a Subsidiary of Duratek, Inc., for Adjustment |) | ALLOWABLE COSTS |
| | in the Levels of Allowable Costs and for |) | |
| | Identification of Allowable Costs |) | |

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc. (“Chem-Nuclear” or the “Company”), dated September 24, 2009 (the “Original Application”). By its Original Application, Chem-Nuclear sought an adjustment in the levels of certain allowable costs for Fiscal Year 2008-2009, which the Commission had previously identified, and for the identification of allowable costs for Fiscal Year 2009-2010, all of which are associated with the operation of the Company’s regional low-level radioactive waste disposal facility located in the vicinity of Barnwell, South Carolina (the “Barnwell Facility”). The Application was submitted pursuant to the pertinent provisions of the Atlantic Interstate Low-level Radioactive Waste Compact Implementation Act (the “Act”), which is codified as S.C. Code Ann. §§ 48-46-10, et seq. (1976), as amended. On March 18, 2010, the Company filed and served an Amended Application which proposed certain revisions in the information contained in

the Original Application to reflect the Company's reconciliation of certain issues with the Office of Regulatory Staff ("ORS").

The Act established a comprehensive economic regulatory program and governs the relationship between the State of South Carolina and operators of facilities for the disposal of low-level radioactive waste. Among other things, the Act provides for South Carolina's membership in the Atlantic Compact (the "Compact") and authorizes the manner in which this State participates in the Compact with Connecticut and New Jersey, which are the other member states. S.C. Code Ann. § 48-46-20 (Supp. 2009).

The Act fixed a schedule of annually declining maximum volumes of low-level radioactive waste that a disposal facility in South Carolina may accept from generators within and without the Compact's member states. S.C. Code Ann. § 48-46-40(A)(6)(a) (Supp. 2009). Starting on July 1, 2008, the Barnwell Facility was limited to accepting waste exclusively from generators in the three Compact states.

In addition, the Act empowers the South Carolina Budget and Control Board (the "Budget and Control Board") to fix the rates that an operator of a disposal facility in South Carolina could charge generators for disposal of low-level radioactive waste. The Act fixed fees for various purposes and provided for the disposition of revenues produced by the disposal operations of facilities subject to the Act. The Barnwell Facility is the only disposal facility for low-level radioactive waste in South Carolina.

Under the Act, the Commission has the responsibility to identify the "allowable costs" of a disposal facility operator. S.C. Code Ann. § 48-46-40(B)(1) (Supp. 2009). "Allowable costs" are "costs to a disposal site operator of operating a regional disposal

facility,” and they “are limited to costs determined by standard accounting practices and regulatory findings to be associated with facility operations.” S.C. Code Ann. § 48-46-30(I) (Supp. 2009). The Act provides that “allowable costs” expressly include the costs of certain specifically identified activities necessary in the operation of a low-level radioactive waste facility. S.C. Code Ann. § 48-46-40(B)(3)(a) through (n) (Supp. 2009). Section 48-46-40(3) also provides that “allowable costs” include “any other costs directly associated with disposal operations determined by [the Commission] to be allowable.” The Act excludes from identification as “allowable costs” the costs of certain expressly listed activities and “any other costs determined by [the Commission] to be unallowable.” S.C. Code Ann. § 48-46-40(B)(3) (Supp. 2009).

The Act entitles a disposal facility operator to recover an operating margin of twenty-nine percent (29%), which is applied to identified “allowable costs,” excluding certain “allowable costs” for taxes and any licensing and permitting fees which the operator is required to remit to governmental entities. S.C. Code Ann. § 48-46-40(B)(5) (Supp. 2009).

The level of “allowable costs” and the statutory operating margin affect the amount of annual revenue that a disposal facility operator remits to the State of South Carolina. At the end of the fiscal year, the operator pays the South Carolina Department of Revenue an amount equal to the total revenue that the operator had received for waste disposal services during the fiscal year, reduced by the operator’s identified “allowable costs,” and reduced further by the twenty-nine percent (29%) statutory operating margin on the “allowable costs” under the Act, and reduced further by payments that the operator

made during the fiscal year for reimbursement of certain administrative costs which the Budget and Control Board, this Commission, the State Treasurer and the Atlantic Compact Commission (the “Compact Commission”) have incurred for the conduct of those agencies’ functions in administering the Act. S.C. Code Ann. § 48-46-60(B) and (C) (Supp. 2009).

The Act provides that the operator of a low-level radioactive waste disposal site may apply to the Commission for adjustments in the levels of “allowable costs” which the Commission had identified for the previous fiscal year and for identification of costs which the Commission had not previously identified as “allowable costs.” S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2009). Upon disposition of the issues in an application, the Act requires the Commission to authorize the site operator to adjust its “allowable costs” for the current fiscal year to compensate the site operator for revenues “lost” during the previous fiscal year (that is, the difference between the level of “allowable costs” previously identified and the level of “allowable costs” identified upon approval of the application). Id.

Chem-Nuclear filed its Original and Amended Applications in this proceeding seeking to be compensated for the difference between the level of “allowable costs” which we identified in Order No. 2009-371 and the amount of such costs that the Company actually experienced in the Fiscal Year 2008-2009. The Original and Amended Applications also sought identification of Chem-Nuclear’s “allowable costs” for Fiscal Year 2009-2010. As in prior proceedings, Chem-Nuclear applied to be compensated only for those “allowable costs” incurred in Fiscal Year 2008-2009 where

the actual costs were more than those identified and approved in Order No. 2009-371. Amended Application, ¶¶ 11-14 and Exhibit A to the Amended Application.

Upon receipt of the Company's Original Application, the Commission's Docketing Department directed Chem-Nuclear to publish a Notice of Filing, advising the public of the submission of the Original Application and of the manner in which interested persons might intervene or otherwise participate in this proceeding. Chem-Nuclear filed affidavits of publication which demonstrated its compliance with the instructions of the Docketing Department.

The Act specifies certain agencies to be parties of record in proceedings for identification of "allowable costs" before the Commission. Those parties are: the Budget and Control Board, the Executive Director of the Office of Regulatory Staff and the Attorney General for the State of South Carolina. S.C. Code Ann. § 48-46-40(B)(9) (Supp. 2009). In addition, the Compact Commission and the South Carolina Department of Health and Environmental Control ("DHEC") have the discretion under the Act to participate as parties. *Id.* Pursuant to the provisions of S.C. Code Ann. § 58-4-10(B) (Supp. 2009), ORS represents "the public interest" in proceedings in this Docket.

On April 29, 2010, the Commission held an evidentiary hearing with respect to the issues in the Company's Amended Application. The Honorable Elizabeth B. "Lib" Fleming, Chairman, presided. F. David Butler, Esquire, served as Advisor to the Commission. Appearances were as follows: Robert T. Bockman, Esquire, represented Chem-Nuclear; Jeffrey M. Nelson, Esquire, represented ORS; neither the Budget and Control Board nor DHEC appeared at the hearing. The Attorney General did not appear

or participate in the hearing. Duke Energy Carolinas, LLC (“Duke”) and South Carolina Electric & Gas Company (SCE&G”), which had intervened in this Docket, were represented by Bonnie D. Shealy, Esquire, and by K. Chad Burgess, Esquire, respectively. Ms. Shealy also represented the Compact Commission. Progress Energy Carolinas, Inc. (“Progress Energy”), which had intervened, did not appear at the hearing.

Chem-Nuclear and ORS entered into a Settlement Agreement, dated March 22, 2010, by which they resolved various issues raised in the Original Application and during the audit which ORS conducted. Counsel for SCE&G, Duke, and Progress Energy signed the Settlement Agreement. The Settlement Agreement was filed with the Commission on April 15, 2010. Thereafter, the Settlement Agreement was amended by the inclusion of its referenced Attachment A (“Amended Settlement Agreement”) and filed with the Commission on April 21, 2010. The Amended Settlement Agreement is a part of the administrative record of this proceeding, as Hearing Exhibit No. 1, and is attached hereto as Order Exhibit 1. The Settlement Agreement included an Attachment A which consisted of the audit report prepared by ORS of its examination of Chem-Nuclear’s books and records.

At the hearing, Chem-Nuclear presented the testimony of one witness, James W. Latham. At the conclusion of the hearing, the record remained open for Chem-Nuclear’s submission of “late-filed” Hearing Exhibit No. 3. The record of this proceeding consists of the pleadings; the Commission’s notices; the transcript of the oral testimony, consisting of fifty-two (52) pages; and three (3) hearing exhibits.

II. DISCUSSION OF ISSUES

All of the issues relating to the identification of “allowable costs” for Fiscal Year 2008-2009 and for Fiscal Year 2009-2010 were resolved among the parties or were not contested in the evidence or positions of the parties. Consequently, the Commission will discuss the issues in general to reflect our reliance upon the evidentiary record for the findings and conclusions in this order.

A. “Allowable Costs” for Fiscal Year 2008-2009

In accordance with the provisions of the Collaborative Review of Chem-Nuclear’s Operations and Efficiency Plan (“OEP”), which Order No. 2004-349 approved for use in these “allowable cost” proceedings, Chem-Nuclear’s Applications and its evidence separated costs into three (3) categories: fixed costs, variable costs and irregular costs. Tr., p. 15. As Order No. 2004-349 had recognized, the OEP was valid for use as a “baseline for establishing a method for identifying ‘allowable costs.’” Order No. 2004-349, p. 17.

1. Fixed Costs for Fiscal Year 2008-2009

Chem-Nuclear separated its fixed costs for Fiscal Year 2008-2009 into several general categories: labor and fringe costs, non-labor costs, corporate allocation of general and administrative expense, equipment leases and support, depreciation, and insurance, as well as those fixed costs for which the statutory operating margin was not applicable. The Company’s operating expense for that period resulted in total fixed costs of \$2,838,898, which Chem-Nuclear actually incurred. Hearing Ex. No. 2, Amended Exhibit A, p. 1. Since the total fixed costs incurred for 2008-2009 were greater than the

level of fixed costs anticipated in Order No. 2009-371, the Company proposed an adjustment of \$277,898 above the previously identified allowable fixed costs for Fiscal Year 2008-2009. Tr., pp. 19, 30. The record supports the identification of \$2,838,898 as fixed “allowable costs” for Fiscal Year 2008-2009.

2. Variable Material Costs for Vaults for Fiscal Year 2008-2009

The actual costs for vaults are predicated on a number of factors, including the size and shape of waste packages and the number and size of vaults required for disposal. Tr., pp. 20, 30. For Fiscal Year 2008-2009, Chem-Nuclear’s actual costs for disposal vaults were \$500,401. Hearing Ex. No. 2, Amended Exhibit A, p. 3. The evidence supports treatment of that amount of those actual costs as “allowable.”

3. Variable Labor Costs and Non-Labor Costs for Fiscal Year 2008-2009

Order No. 2009-371 determined various categories of rates applicable to the following: purchase, inspection and placement of disposal vaults, handling of the various classes of waste shipments, slit trench offload operations, customer assistance, and scheduling of waste shipments and maintenance of disposal records. Hearing Ex. No. 2, Amended Exhibit A, p. 2. According to the record, the variable Labor and Non-Labor rates are associated with several independent variables. Tr., pp. 19-20, 28. The Company incurred actual variable labor and non-labor costs of \$153,521 in Fiscal Year 2008-2009, which the Company has requested to be included in this category of costs for Fiscal Year 2008-2009. Id. The record supports treatment of that amount of those actual costs as “allowable.”

4. Irregular Costs for Fiscal Year 2008-2009

Irregular costs include costs for projects that are nonrecurring annually or varying costs for projects which continue for more than a year. Tr., pp. 21-22, 28. The record contains numerous descriptions of each project and the actual costs that Chem-Nuclear incurred for them in Fiscal Year 2008-2009. Id.; Hearing Ex. No. 2, Amended Exhibit B. At the date of the issuance of Order No. 2009-371, not all of the irregular costs for Fiscal Year 2008-2009 were known and measurable. Id., p. 21. The evidence here establishes that Chem-Nuclear incurred actual irregular costs for Fiscal Year 2008-2009 of \$360,593. Tr. pp. 21-22; Hearing Ex. No. 2, Amended Exhibit A, p. 4. The record supports treatment of that amount of those actual costs as “allowable.”

B. Proposed “Allowable Costs” for Fiscal Year 2009-2010

Chem-Nuclear’s Amended Application and the evidence in the record presented “allowable costs” to be identified for Fiscal Year 2009-2010, separated into the three (3) cost categories that were described in the Collaborative Review of the OEP and adopted in Order No. 2004-349.

1. Allowable Fixed Costs for Fiscal Year 2009-2010

Chem-Nuclear proposed total fixed costs of \$2,632,663 to be identified as “allowable costs” for Fiscal Year 2009-2010. That amount was based on actual fixed costs incurred in Fiscal Year 2008-2009, with appropriate adjustments for inflation as the Commission has previously approved, and in anticipation of lower volumes for disposal. Tr., pp. 22, 32-33. The total fixed costs for Fiscal Year 2009-2010 include \$167,000 to

which the statutory operating margin is not applicable. Hearing Ex. No. 2, Amended Exhibit C, p. 1.

2. Allowable Irregular Costs for Fiscal Year 2009-2010

Chem-Nuclear described general categories of projects with estimated total costs of \$153,000, which it categorized as irregular costs for Fiscal Year 2009-2010. Tr., pp. 22-23, 33.

3. Variable Material Cost (Vaults) Rates for Fiscal Year 2009-2010

For Fiscal Year 2009-2010, Chem-Nuclear proposed variable material cost rates for each category of waste received based upon the rates which we had approved in Order No. 2009-371 for Fiscal Year 2008-2009, as adjusted for a nominal inflation rate of two percent (2%). Tr., pp. 23-24, 34-35.

4. Variable Labor and Non-Labor Rates for Fiscal Year 2009-2010

For Fiscal Year 2009-2010, Chem-Nuclear proposed rates for variable labor and non-labor costs. Tr., pp. 23, 34. Hearing Ex. No. 2, Amended Exhibit C. Those rates pertained to five (5) categories: vault purchase and inspection (per vault); ABC waste disposal (per shipment); Slit Trench Waste Operations (per offload); customer assistance (per shipment); and maintenance of trench records (per container). The rates were based on the rates which we approved in Order No. 2009-371, adjusted for a nominal inflation rate of two percent (2%). Id.

III. FINDINGS AND CONCLUSIONS

1. The Public Service Commission of South Carolina is authorized and directed by S.C. Code Ann. §§ 48-46-40(B), et seq. (Supp. 2009) to identify allowable costs for Chem-Nuclear's operation of a regional low-level radioactive waste disposal facility in South Carolina. The facility is located in Barnwell, South Carolina.

2. Chem-Nuclear has operated the disposal site continuously since 1971 without interruptions. Undisputed amounts in Chem-Nuclear's accounts that will herein be identified and approved by this Commission as "allowable costs" for Fiscal Year 2008-2009 are included in Appendix A, which is attached to this Order.

3. Further, we approve and identify as "allowable costs" for Fiscal Year 2009-2010 the individual figures and the sum of \$2,785,663 in fixed and irregular costs, as reflected in Appendix B, which is attached to this Order.

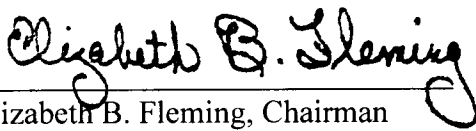
4. Finally, we approve the variable cost rates for Fiscal Year 2009-2010, as those costs and rates are depicted in Appendix B, which is attached to this Order. The actual expense in the variable cost category will be dependent on the actual volumes and classes of waste received. The rates in Appendix B are appropriately documented and supported by evidence in the record of this proceeding.

5. Chem-Nuclear shall continue to submit monthly reports of variable cost data to the Commission as required by Commission Order No. 2001-499.

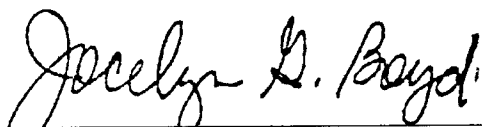
6. The Amended Settlement Agreement is approved.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


Jocelyn G. Boyd, Interim Chief Clerk and Administrator

(SEAL)

APPENDIX A

Page 1 of 2

Chem-Nuclear Systems, LLC
Allowable Costs
Fiscal Year Ending June 30, 2009

| <u>Description</u> | <u>Allowable Cost</u> |
|---|---------------------------|
| Fixed Costs | |
| Fixed Labor, Fringe and Non-Labor Costs | \$1,292,726 |
| Depreciation | \$154,407 |
| Insurance | \$458,425 |
| Equipment and Leases and Support | \$313,713 |
| Corporate G&A | \$563,563 |
| Legal Support* | <u>\$56,064</u> |
| Total Fixed Costs | \$2,838,898 |
| Variable Costs | |
| Vault Costs | \$500,401 |
| Variable Labor and Fringe** | <u>\$153,521</u> |
| Total Variable Costs | \$653,922 |
| Irregular Costs | |
| Total Irregular Costs | <u>360,593</u> |
| Total Allowable Costs | <u>\$3,853,413</u> |

* Not subject to statutory operating margin.

** Categories of costs include: Vault Purchase and Inspection, ABC Waste Disposal, Slit Trench Operations, Waste Acceptance and Trench Records.

APPENDIX A
Page 2 of 2

Chem-Nuclear Systems, LLC
Allowable Costs
Fiscal Year Ending June 30, 2009

| <u>Irregular Cost Item</u> | <u>Labor & Fringe</u> | <u>Non Labor</u> | <u>Total Cost</u> |
|--|--------------------------------------|-----------------------------|------------------------------|
| Various Trenches | \$2,551 | \$68,709 | \$71,260 |
| Decontamination and Corrective Actions | \$1,533 | \$6,474 | \$8,007 |
| Site Engineering and Drawing Updates | \$334 | \$2,643 | \$2,977 |
| Site Assessments | \$1,509 | \$2,842 | \$4,351 |
| License Renewal and Appeal Costs | \$9,189 | \$382 | \$9,571 |
| Puncture Stand Relocation | \$18,536 | \$2,437 | \$20,973 |
| Increased Security Controls | \$0 | \$17,350 | \$17,350 |
| Severance Pay | \$8,589 | \$178,750 | \$187,339 |
| Other Irregular Costs | <u>\$28,791</u> | <u>\$9,974</u> | <u>\$38,765</u> |
| <u>Total Irregular Costs</u> | <u>\$71,032</u> | <u>\$289,561</u> | <u>\$360,593</u> |

APPENDIX B

Page 1 of 2

Chem-Nuclear Systems, LLC
Allowable Costs
Fiscal Year 2009-2010 (Ending June 30, 2010)

| <u>Description</u> | <u>Allowable Cost</u> |
|--|---------------------------|
| Fixed Costs | |
| Labor and Fringe and Non-Labor | \$1,318,581 |
| Depreciation | \$71,475 |
| Insurance | \$384,518 |
| Equipment Leases and Support | \$116,255 |
| Corporate Allocation (Management Fee/G&A) | \$574,834 |
| Legal Support* | \$167,000 |
| Total Fixed Costs | \$2,632,663 |
| Irregular Costs | |
| Trench Construction | \$30,000 |
| License Appeal | \$10,000 |
| Corrective Action | \$5,000 |
| Increased Security Controls | \$20,000 |
| Site Engineering Drawings | \$3,000 |
| Site Assessments | \$5,000 |
| Severance Pay | \$75,000 |
| Miscellaneous | \$5,000 |
| Total Irregular Costs | \$153,000 |
| Total Fixed and Irregular Costs | \$2,785,663 |
| Variable Costs | |
| <u>Variable Labor and Non-Labor Rates</u> | |
| Vault Purchase and Inspection (per vault) | \$77.43 |
| ABC Waste Disposal (per shipment) | \$1,854.92 |
| Slit Trench Shipment (per offload) | \$6,696.69 |
| Customer Assistance (per shipment) | \$45.34 |
| Trench Records (per container) | \$124.06 |

APPENDIX B
Page 2 of 2

Variable Material Costs (Vault Costs)

| | |
|------------------------------------|----------|
| Class A Waste (per cubic foot) | \$39.03 |
| Class B Waste (per cubic foot) | \$40.44 |
| Class C Waste (per cubic foot) | \$41.30 |
| Slit Trench Waste (per cubic foot) | \$184.54 |

* Not subject to statutory operating margin

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
Docket No. 2000-366-A

In Re: Application of Chem-Nuclear Systems, LLC,)
a Division of Duratek, Inc. for Adjustment) SETTLEMENT
in the Levels of Allowable Costs and for) AGREEMENT
Identification of Allowable Costs (FY 2009-2010))

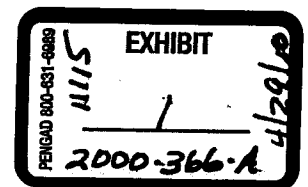
This Settlement Agreement is made by and between Chem-Nuclear Systems, LLC, a division of Duratek, Inc. ("Chem-Nuclear" or "Company"), and the South Carolina Office of Regulatory Staff ("ORS") with respect to the Application and Amended Application of Chem-Nuclear Systems, LLC, for Fiscal Year 2009-2010 ("Amended Application") pending before the Public Service Commission of South Carolina ("Commission") in Docket No. 2000-366-A.

WHEREAS, the Company filed an Application, dated September 24, 2009, ("Application") in this docket by which Chem-Nuclear requested the Commission to identify certain "allowable costs" for the Company's fiscal years 2008-2009 and 2009-2010, in accordance with the provisions of S.C. Code Ann. § 48-46-10, et seq. (Rev. 2008), and with the Commission's rules and regulations; and

WHEREAS, ORS conducted an examination of the allowable costs to be identified and recovered in Chem-Nuclear's Application; and

WHEREAS, Chem-Nuclear filed an Amended Application, dated March 18, 2010, in this docket in accordance with S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2009) and the Commission's rules and regulations; and

WHEREAS, the Company's Amended Application resolved the concerns of the ORS pursuant to its examination; and



WHEREAS, on March 18, 2010, the Prefiled Direct Testimony of James W. Latham was filed on behalf of Chem-Nuclear reflecting the position of the Company as contained in its Amended Application; and

WHEREAS, the Report of ORS Auditor, Daniel Sullivan, of the review and examination of Chem-Nuclear's Application and Amended Application, dated March 23, 2010 ("Report"), is attached to this Agreement and incorporated by reference ("Attachment A"); and

WHEREAS such Report summarizes the Company's Amended Application and concurs with the request of the Company as contained in the Amended Application; and

WHEREAS, Chem-Nuclear and ORS believe that it is in their best interests and those of the State of South Carolina to enter into a Settlement Agreement relating to this matter in order to avoid the additional expense which the litigation of their positions would occasion in this proceeding.

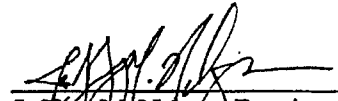
WHEREFORE, ORS and Chem-Nuclear enter into this Agreement on the following terms:

1. The Company and ORS agree to the Actual Costs of Fiscal Year 2008-2009, including fixed costs, irregular costs, variable labor and non-labor costs and vault costs as specified in Chem-Nuclear's Amended Application.
2. Chem-Nuclear and ORS agree on the calculation of projected costs for Fiscal Year 2009-2010 as specified in Chem-Nuclear's Amended Application.
3. ORS and the Company agree that the Prefiled Direct Testimony of James W. Latham accurately reflects the agreed upon positions of the Company and ORS in this matter.
4. ORS and Chem-Nuclear agree that James W. Latham will present testimony at the hearing in this matter consistent with his prefiled direct testimony, the Amended

Application and the terms of this Settlement Agreement.

5. Upon execution of this Settlement Agreement, Chem-Nuclear will file an original of this Settlement Agreement with the Commission and serve a copy of it upon all parties of record in SCPSC Docket No. 2000-366-A.
6. The Company and ORS agree that by signing this Settlement Agreement, it will not constrain, inhibit or impair in any way their arguments or positions they may choose to make in future proceedings. If the Commission should decline to approve the Settlement Agreement in its entirety, then the Company or ORS may withdraw from the Settlement Agreement without penalty.
7. This agreement shall be interpreted according to South Carolina law.
8. Chem-Nuclear and ORS acknowledge consent and agreement to this Settlement Agreement by authorizing their respective counsel to affix his or her signature to this document where indicated below. Counsel's signature constitutes a representation that his or her client has authorized the execution of this Settlement Agreement. Facsimile signatures and email signatures shall be as effective as original signatures. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

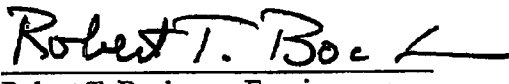
**Representing and binding the
Office of Regulatory Staff:**



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March 22, 2010

**Representing and binding Chem-Nuclear
Systems, LLC, a Division of Duratek, Inc.:**

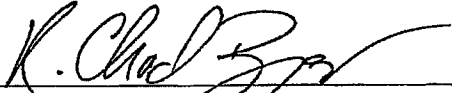


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March 22, 2010

WE AGREE:

Representing and binding South Carolina Electric & Gas Company

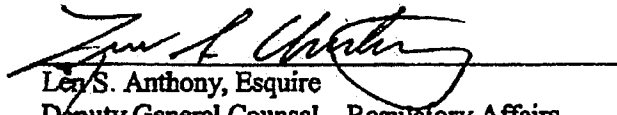


K. Chad Burgess, Esquire
South Carolina Electric & Gas Company
MC C222
220 Operation Way
Cayce, SC 29033-3701
Phone: (803) 217-8141
Fax: (803) 217-7931
Email: chad.burgess@scana.com

April
~~March~~ 15, 2010

WE AGREE:

Representing and binding Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc.

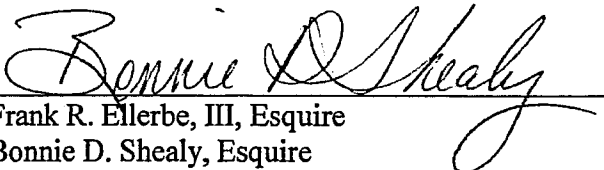


Len S. Anthony, Esquire
Deputy General Counsel – Regulatory Affairs
Progress Energy Carolinas, Inc.
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Phone: (919)546-6367
Fax: (919)546-2694
Email: len.s.anthony@pgnmail.com

~~April~~
March 13, 2010

WE AGREE:

Representing and binding Duke Energy Carolinas



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Bonnie D. Shealy, Esquire
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April 8, 2010

ATTACHMENT A

C. DUKES SCOTT
EXECUTIVE DIRECTOR

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DANIEL ARNETT
CHIEF OF STAFF

JAY R. JASHINSKY, CPA
DIRECTOR OF AUDITING

SOUTH CAROLINA OFFICE OF REGULATORY STAFF

EXAMINATION REPORT FOR DOCKET NO. 2000-366-A

THE APPLICATION OF CHEM-NUCLEAR SYSTEMS, LLC, A SUBSIDIARY OF DURATEK, INC., FOR ADJUSTMENT IN THE LEVELS OF ALLOWABLE COSTS AND FOR IDENTIFICATION OF ALLOWABLE COSTS

On September 24, 2009, Chem-Nuclear Systems, LLC ("Chem-Nuclear") filed an application for Adjustment in the Levels of Allowable Costs for the Fiscal Year Ending June 30, 2009 and for Identification of Allowable Costs for Fiscal Year Ending June 30, 2010, pursuant to Public Service Commission of South Carolina ("PSC" or "Commission") Order No. 2009-371 in Docket No. 2000-366-A.

Effective July 1, 2008, Pursuant to S.C. Code Ann. § 48-46-40-(A)(6)(a), (Supp. 2009), Chem-Nuclear can only accept waste generated within the three Atlantic Compact states, South Carolina, New Jersey and Connecticut. Additionally, since July 1, 2008, Chem-Nuclear commenced site closure ("institutional") activities parallel to its site disposal operating ("operational") activities. These institutional costs include site maintenance, monitoring, security, other administrative expenses and license costs, and are paid from the Barnwell Decommissioning Trust Fund each year. Remaining reimbursable costs are included as operating costs in Chem-Nuclear's application for reimbursement filed with the Public Service Commission.

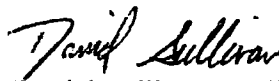
The South Carolina Office of Regulatory Staff ("ORS") completed an examination of the application and the underlying financial records of Chem-Nuclear for the operation of its regional low-level radioactive waste disposal facility located in the vicinity of Barnwell, South Carolina. Based on the work performed, ORS determined that reimbursable amounts included for Fixed costs, Variable costs and Irregular costs for fiscal year ended June 30, 2009 on the Application are materially correct and conform to South Carolina Public Service Commission Rules and Regulations. Therefore, no adjustments are proposed by ORS for the fiscal year ended June 30, 2009.

Chem-Nuclear Systems, LLC
Page 2 of 2

A comparison of the allowable reimbursements to the amounts authorized by the PSC in Order No. 2009-371 dated June 18, 2009, was prepared by ORS Audit Staff. This comparison is attached herewith as Exhibit A. As shown on Exhibit A, ORS recommends that Chem-Nuclear be allowed to retain, as recovery of their expenditures in operating the Barnwell Low Level Radioactive Waste Storage Facility for the fiscal year ended June 30, 2009, the following:

- \$2,838,898 in Fixed Costs,
- \$653,922 in Variable Costs and
- \$360,593 in Irregular Costs

In conjunction with procedures performed for fiscal year ended June 30, 2009, ORS also examined transactions recorded by Chem-Nuclear for the period beginning July 1, 2009, and extending through December 31, 2009. Based on this examination, ORS recommended adjustments to Chem-Nuclear's Projected Fixed costs for the fiscal year ending June 30, 2010. These adjustments were discussed with members of Chem-Nuclear's management who agreed with their propriety. Projected Irregular costs for the fiscal year ending June 30, 2010 appeared reasonable. ORS also calculated actual Variable cost rates for the fiscal year ending June 30, 2010 as listed in Exhibit AA, which are consistent with the rates filed in the Amended Application by Chem-Nuclear.


Daniel Sullivan, Auditor
March 23, 2010

Chem-Nuclear Systems, LLC
Operating Experience and Reimbursable Costs
For the Twelve Months Ended June 30, 2009

| | Per Amended Application | Commission Order No. 2009-371 | Actual Costs Over (Under) Commission Allowed |
|--------------------------------|------------------------------------|--|---|
| <u>Fixed Costs</u> | | | |
| Labor, Fringe and Non-Labor | \$ 1,292,726 | \$ 1,000,000 | \$ 292,726 |
| Corporate Allocations (G&A) | 563,563 | 500,000 | 63,563 |
| Equipment Leases and Support | 313,713 | 400,000 | (86,287) |
| Depreciation | 154,407 | 188,000 | (33,593) |
| Insurance | 458,425 | 448,000 | 10,425 |
| Legal (License Appeal) | 56,064 | 25,000 | 31,064 |
| Total Fixed Costs | \$ 2,838,898 | \$ 2,561,000 | \$ 277,898 |
| <u>Variable Costs</u> | | | |
| Vault Cost | \$ 500,401 | \$ 499,610 | \$ 791 |
| Labor and Non-Labor Costs | 153,521 | 209,756 | (56,235) |
| Total Variable Expenses | \$ 653,922 | \$ 709,366 | \$ (55,444) |

Chem-Nuclear Systems, LLC
Operating Experience and Reimbursable Costs
For the Twelve Months Ended June 30, 2009

Exhibit A
Page 2 of 2

| | Per Amended Application | Commission Order No. 2009-371 | Actual Costs Over (Under) Commission Allowed |
|---|----------------------------|-------------------------------------|---|
| <u>Irregular Costs</u> | | | |
| Various Trenches (Design, Construct, and Backfill) | | | |
| Labor | 2,551 | | |
| Non-Labor | 68,709 | | |
| Total | \$ 71,260 | \$ 40,000 | \$ 31,260 |
| License Renewal and Appeal Costs | | | |
| Labor | 9,189 | | |
| Non-Labor | 382 | | |
| Total | 9,571 | 5,000 | 4,571 |
| Decontamination & Corrective Actions | | | |
| Labor | 1,533 | | |
| Non-Labor | 6,474 | | |
| Total | 8,007 | - | 8,007 |
| Site Engineering and Drawings Updates | | | |
| Labor | 334 | | |
| Non-Labor | 2,643 | | |
| Total | 2,977 | 3,000 | (23) |
| Site Assessments | | | |
| Labor | 1,509 | | |
| Non-Labor | 2,842 | | |
| Total | 4,351 | 30,000 | (25,649) |
| Severance Pay | | | |
| Labor | 8,589 | | |
| Non-Labor | 178,750 | | |
| Total | 187,339 | 300,000 | (112,661) |
| Other Irregular Costs | | | |
| Labor | 28,791 | | |
| Non-Labor | 9,974 | | |
| Total | 38,765 | 1,000 | 37,765 |
| Puncture Stand Relocation | | | |
| Labor | 18,536 | | |
| Non-Labor | 2,437 | | |
| Total | 20,973 | - | 20,973 |
| Increased Security Controls | | | |
| Labor | - | | |
| Non-Labor | 17,350 | | |
| Total | 17,350 | 10,000 | 7,350 |
| Total Irregular Costs | \$ 360,593 | \$ 389,000 | \$ (28,407) |

Chem-Nuclear Systems, LLC
Proposed Fixed, Irregular and Variable Costs
For the Fiscal Year Ending June 30, 2010 To Date

Exhibit AA
Page 1 of 2

| | <u>Per Amended</u> <u>Application</u> | <u>Actual Through</u> <u>12/31/2009</u> | <u>Difference</u> |
|--|--|--|---------------------|
| FIXED COSTS | | | |
| Fixed Costs to which 29% operating margin is added: | | | |
| Labor, Fringe and Non-Labor | \$ 1,318,581 | \$ 567,251 | \$ 751,330 |
| Corporate Allocations (Management Fees/G&A) | 574,834 | 121,465 | 453,369 |
| Depreciation | 71,475 | 35,737 | 35,738 |
| Insurance | 384,518 | 192,259 | 192,259 |
| Equipment Leases and Support | 116,255 | 58,128 | 58,127 |
| Total Margin Costs | <u>2,465,663</u> | <u>974,840</u> | <u>1,490,823</u> |
| Fixed Costs to which 29% operating margin is not added: | | | |
| Legal Support (license appeal) | 167,000 | 111,677 | 55,323 |
| Total Non-margin Costs | <u>167,000</u> | <u>111,677</u> | <u>55,323</u> |
| Total Fixed Costs | <u>\$ 2,632,663</u> | <u>\$ 1,086,517</u> | <u>\$ 1,546,146</u> |

| | | | |
|------------------------------|-------------------|------------------|------------------|
| IRREGULAR COSTS | | | |
| Trench Construction | \$ 30,000 | \$ 13,940 | \$ 16,060 |
| License Appeal | 10,000 | 1,021 | 8,979 |
| Corrective Action | 5,000 | 14,501 | (9,501) |
| Site Engineering Drawings | 3,000 | 927 | 2,073 |
| Site Assessments | 5,000 | 1,081 | 3,919 |
| Miscellaneous | 5,000 | (3,195) | 8,195 |
| Increased Security Controls | 20,000 | 2,247 | 17,753 |
| Severance Pay | 75,000 | 60,869 | 14,131 |
| Puncture Stand Relocation | - | 36 | (36) |
| Total Irregular Costs | <u>\$ 153,000</u> | <u>\$ 91,427</u> | <u>\$ 61,573</u> |

Chem-Nuclear Systems, LLC
Proposed Fixed, Irregular and Variable Costs
For the Fiscal Year Ending June 30, 2010 To Date

Exhibit AA
Page 2 of 2

VARIABLE RATES

| | <u>Costs</u> | <u>Variable Factor</u> |
|--|---------------------|-------------------------------|
| Variable Labor and Non-Labor Rates | | |
| Vault Purchase & Inspection | \$ <u>77.43</u> | Per Vault |
| A B C Waste Disposal | <u>1,854.92</u> | Per Shipment |
| Slit Trench Shipment | <u>6,696.69</u> | Per Offload |
| Customer Assistance | <u>45.34</u> | Per Shipment |
| Trench Records | <u>124.06</u> | Per Container |
| Variable Material Cost Rates (Vaults) | | |
| Class A Waste | \$ <u>39.03</u> | Per Cubic Foot |
| Class B Waste | <u>40.44</u> | Per Cubic Foot |
| Class C Waste | <u>41.30</u> | Per Cubic Foot |
| Slit Trench Waste | <u>184.54</u> | Per Cubic Foot |